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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,061	01/02/2002	Boas Betzler	POU901066US1	9115
46369	7590	09/07/2006	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI P.C. 5 COLUMBIA CIRCLE ALBANY, NY 12203			SCUDERI, PHILIP S	
			ART UNIT	PAPER NUMBER
			2153	

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/039,061		BETZLER, BOAS	
	<b>Examiner</b>		<b>Art Unit</b>	
	Philip S. Scuderi		2153	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,6-8,10,11,15-18,20-22 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8,10,11,15-18,20-22 and 26-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 25 July 2006 has been entered.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2, 7, 8, 10, 11, 16-18, 20-22, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins (U.S. Publication No. 2003/0112823) in view of Vij (U.S. Patent No. 6,452,910).**

Regarding claim 1, Collins shows a method of establishing instant messaging communications between wireless devices (figure 4b), said method comprising:

connecting a first wireless device (100) to an instant messaging server (rendezvous service 400) (see paragraphs [0036]-[0037]);

transmitting device address (network address) and access code (login) information of the first wireless device (of device 100) from the first wireless device (100) to the instant messaging server (rendezvous service 400) (see paragraph [0036], where the users login to the rendezvous service; the rendezvous service must receive network addresses from the devices for the devices to attempt to initiate direct communications);

requesting by the first wireless device (100) a list of active wireless devices from the instant messaging server (see paragraph [0040], where device 100 attempts to establish direct connection 410; the rendezvous service must send device 112's address to device 100 for device 100 to attempt to establish direct connection 410)

in the same piconet as the first wireless device (devices 100 and 112 are both devices on the Internet, which is a piconet because (1) the devices can connect via wireless media, making the Internet a wireless network, and (2) the devices have direct peer-to-peer capabilities) (see paragraph [0035], where the devices can connect via various wireless mediums; see paragraph [0040], where the devices are directly connected);

transferring from the instant messaging server (rendezvous service 400) to the first wireless device (100) the list of active wireless devices (the rendezvous service must send device 112's address to device 100 for device 100 to attempt to establish direct connection 410) in the same piconet as the first wireless device (in the Internet);

employing by the first wireless device (100) the list of active wireless devices in the same piconet to identify at the first wireless device at least one additional wireless device belonging to the same piconet as the first wireless device (see paragraph [0040], where device 100 initiates and establishes direct communication with device 112); and

responsive to said employing, establishing by the first wireless device (100) direct instant messaging communication across the piconet (across the Internet) between the first wireless device (100) and a second wireless device (112) without further employing the instant messaging server (direct communication flow 410 does not employ rendezvous service 400), wherein the second wireless device (112) is one device of the at least one additional wireless device belonging to the same piconet as the first wireless device (belonging to the Internet), and wherein the direct instant messaging between the first wireless device and the second wireless device (communications flow 410) is direct wireless communication therebetween employing the piconet (the communication is wireless when the devices connect to the Internet via any wireless medium) (see paragraph [0035], where the devices can connect via various wireless mediums; see paragraph [0040], where the devices establish a direct connection across the Internet).

Collins discloses that the devices can be “hand-held or laptop devices” that can connect to the piconet (the Internet) via “wireless media such as acoustic, RF, infrared, and other wireless media” (see paragraph [0035]). Collins does not expressly disclose that the piconet (the Internet) is *implemented with Bluetooth technology having a range characteristic indicative of a distance within which radio signals carry between wireless devices of the piconet using direct connection wireless technology*. Nonetheless, it was well known in the art to connect such devices to the Internet using such Bluetooth technology, as evidenced by Vij.

In a similar art, Vij teaches a system for bridging a Bluetooth network so that Bluetooth devices can connect to the Internet (see abstract, summary, etc.), the Bluetooth network having a range characteristic indicative of a distance within which radio signals carry between wireless devices of using direct connection wireless technology (30 feet) (see column 2, lines 20-22). Vij’s system provides advantages such as enabling users with Bluetooth devices to conveniently access the

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Internet from a variety of locations. It would have been obvious to use Vij's bridge in the instant case for any of the same reasons.

Regarding claim 2, Collins and Vij teach the method as applied to claim 1. Collins further teaches that the establishing comprises transitioning the first wireless device (100) and the second wireless device (112) from client/server based communication with the instant messaging server (rendezvous service 400) to wireless peer-to-peer communication without the need for the instant messaging server therebetween (see figure 4b, where communication session 410 does not pass through rendezvous service 400).

Regarding claims 7, 8, 10, 16-18, 20, 21, 27, and 28, these claims are rejected for substantially the same reasons as claim 1.

Regarding claims 11 and 22, these claims are rejected for substantially the same reasons as claim 2.

**Claims 6, 15, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins (U.S. Publication No. 2003/0112823) in view of Vij (U.S. Patent No. 6,452,910), and further in view of Jabber (Jabber.org homepage, printed from the 05 December 2000 archive of Jabber.org).**

Regarding claim 6, Collins and Vij teach the method as applied to claim 1. Vij discloses use of the Bluetooth standard, as discussed above. Collins cites MSN Messenger as an example of a rendezvous service (instant messaging service), but does not expressly disclose *employing the Jabber instant messaging protocol*. Nonetheless, it was well known in the art that the Jabber protocol provided advantages such as being free, simple, fast, extensible, modularized, cross platform, etc. (see the first

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paragraph of the Jabber reference). It would have been obvious to one of ordinary skill in the art to utilize the Jabber protocol in the instant case for any of these reasons.

Regarding claims 15 and 26, these claims are rejected for substantially the same reasons as claim 6.

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip S. Scuderi whose telephone number is (571) 272-5865. The examiner can normally be reached on Monday-Friday 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PS



**KRISNA LIM**  
**PRIMARY EXAMINER**